

AMENDED IN SENATE MARCH 31, 2011

**SENATE BILL**

**No. 383**

---

**Introduced by Senator Wolk**

February 15, 2011

---

An act to amend Section ~~2826.5~~ of 2830 of, and to repeal Section 2826.5 of, the Public Utilities Code, relating to ~~private energy producers~~ energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 383, as amended, Wolk. ~~Private~~ Local government renewable energy self-generation program: private energy producers: PVUSA solar facility.

~~Under~~

(1) Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined. Existing law permits a private energy producer, as defined, to generate electricity not generated from conventional sources, as defined, solely for its own use or the use of its tenants, or generating electricity to or for any electrical corporation, state agency, city, county, district, or an association thereof, but not the public, without becoming a public utility subject to the general jurisdiction of the commission. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The local government renewable energy self-generation program authorizes a local government, as defined, to receive a bill credit, as defined, to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account. The program requires

*the local government or campus and the electrical corporation to mutually agree upon a benefiting account.*

*This bill would authorize the local government or campus to designate the benefiting account.*

*The existing program requires that the benefiting account receives service under a time-of-use rate schedule and requires that a bill credit is to be calculated based upon the time-of-use electricity generation component of the electricity usage charge of the generating account, multiplied by the quantities of electricity generated by an eligible renewable generating facility that are exported to the grid during the corresponding time period.*

*This bill would delete the requirement that the benefiting account receive service under a time-of-use rate schedule and require that the bill credit be calculated based upon the bundled electricity rate charged the benefiting account, with differing calculations depending upon whether the benefiting account receives service pursuant to a time-of-use rate schedule, a single bundled rate, or fixed rates with different rates charged for different tiers of usage. The bill would authorize a benefiting account that is a net surplus customer-generator, as defined, to affirmatively elect to receive net surplus electricity compensation, as defined.*

*The existing program limits the generating capacity of an eligible renewable generating facility to no more than one megawatt and requires that the facility be owned by, operated by, or be located on property under the control of the local government or campus.*

*This bill would limit the generating capacity of an eligible renewable generating facility to no more than 20 megawatts. The bill would delete the requirement that the eligible renewable generating facility be owned by, operated by, or be located on, property under the control of the local government or campus.*

*The existing program provides that an electrical corporation is not obligated to provide a bill credit to a benefiting account that is not designated prior to the point in time that the combined statewide cumulative rated generating capacity of all eligible renewable generating facilities within the service territories of the state's 3 largest electrical corporations reaches 250 megawatts.*

*This bill would delete this 250 megawatts limitation upon the obligation of an electrical corporation to provide a bill credit.*

**Existing**

(2) *Existing* law authorizes the City of Davis to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a photovoltaic facility located within and partially owned by the city (PVUSA solar facility) and requires the commission adopt a rate tariff for the benefiting account. Existing law authorizes the peak electricity generating capacity for the facility to be expanded, not to exceed one megawatt.

*This bill would repeal these provisions relating to the City of Davis.*

~~This bill would authorize the peak electricity generating capacity of the PVUSA solar facility to be expanded, not to exceed 20 megawatts and would eliminate the requirement that the facility be owned, at least in part, by the City of Davis. The bill would additionally revise the requirements to be a benefiting account, would revise how benefiting accounts are billed, would revise how benefiting accounts are credited with electrical generation from the PVUSA solar facility, and would authorize a benefiting account that is a net surplus customer-generator, as defined, to affirmatively elect to receive net surplus electricity compensation, as defined.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 2826.5 of the Public Utilities Code is
- 2     repealed.
- 3     2826.5.—(a) ~~As used in this section, the following terms have~~
- 4     ~~the following meanings:~~
- 5         (1) ~~“Benefiting account” means an electricity account, or more~~
- 6         ~~than one account, mutually agreed upon by Pacific Gas and Electric~~
- 7         ~~Company and the City of Davis.~~
- 8         (2) ~~“Bill credit” means credits calculated based upon the~~
- 9         ~~electricity generation component of the rate schedule applicable~~
- 10        ~~to a benefiting account, as applied to the net metered quantities of~~
- 11        ~~electricity.~~
- 12        (3) ~~“PVUSA” means the photovoltaic electricity generation~~
- 13        ~~facility selected by the City of Davis, located at 24662 County~~
- 14        ~~Road, Davis, California, with a rated peak electricity generation~~
- 15        ~~capacity of 600 kilowatts, and as it may be expanded, not to exceed~~
- 16        ~~one megawatt of peak generation capacity.~~
- 17        (4) ~~“Net metered” means the electricity output from the PVUSA.~~

~~(5) “Environmental attributes” associated with the PVUSA include, but are not limited to, the credits, benefits, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, however entitled resulting from the avoidance of the emission of any gas, chemical, or other substance attributable to the PVUSA.~~

~~(b) The City of Davis may elect to designate a benefiting account, or more than one account, to receive bill credit for the electricity generated by the PVUSA, if all of the following conditions are met:~~

~~(1) A benefiting account receives service under a time-of-use rate schedule.~~

~~(2) The electricity output of the PVUSA is metered for time of use to allow allocation of each bill credit to correspond to the time-of-use period of a benefiting account.~~

~~(3) All costs associated with the metering requirements of paragraphs (1) and (2) are the responsibility of the City of Davis.~~

~~(4) All electricity delivered to the electrical grid by the PVUSA is the property of Pacific Gas and Electric Company.~~

~~(5) PVUSA does not sell electricity delivered to the electrical grid to a third party.~~

~~(6) The right, title, and interest in the environmental attributes associated with the electricity delivered to the electrical grid by the PVUSA are the property of Nuon Renewable Ventures USA, LLC.~~

~~(c) A benefiting account shall be billed on a monthly basis, as follows:~~

~~(1) For all electricity usage, the rate schedule applicable to the benefiting account, including any surcharge, exit fee, or other cost recovery mechanism, as determined by the commission, to reimburse the Department of Water Resources for purchases of electricity, pursuant to Division 27 (commencing with Section 80000) of the Water Code.~~

~~(2) The rate schedule for the benefiting account shall also provide credit for the generation component of the time-of-use rates for the electricity generated by the PVUSA that is delivered to the electrical grid. The generation component credited to the benefiting account may not include the surcharge, exit fee, or other cost recovery mechanism, as determined by the commission, to reimburse the Department of Water Resources for purchases of~~

1 electricity, pursuant to Division 27 (commencing with Section  
2 80000) of the Water Code.

3 (3) If in any billing cycle, the charge pursuant to paragraph (1)  
4 for electricity usage exceeds the billing credit pursuant to paragraph  
5 (2), the City of Davis shall be charged for the difference.

6 (4) If in any billing cycle, the billing credit pursuant to paragraph  
7 (2), exceeds the charge for electricity usage pursuant to paragraph  
8 (1), the difference shall be carried forward as a credit to the next  
9 billing cycle.

10 (5) After the electricity usage charge pursuant to paragraph (1)  
11 and the credit pursuant to paragraph (2) are determined for the last  
12 billing cycle of a calendar year, any remaining credit resulting  
13 from the application of this section shall be reset to zero.

14 (d) Not more frequently than once per year, and upon providing  
15 Pacific Gas and Electric Company with a minimum of 60 days  
16 notice, the City of Davis may elect to change a benefiting account.  
17 Any credit resulting from the application of this section earned  
18 prior to the change in a benefiting account that has not been used  
19 as of the date of the change in the benefit account, shall be applied,  
20 and may only be applied, to a benefiting account as changed.

21 (e) Pacific Gas and Electric Company shall file an advice letter  
22 with the Public Utilities Commission, that complies with this  
23 section, not later than 10 days after the effective date of this section,  
24 proposing a rate tariff for a benefiting account. The commission,  
25 within 30 days of the date of filing, shall approve the proposed  
26 tariff, or specify conforming changes to be made by Pacific Gas  
27 and Electric Company to be filed in a new advice letter.

28 (f) The City of Davis may terminate its election pursuant to  
29 subdivision (b), upon providing Pacific Gas and Electric Company  
30 with a minimum of 60 days notice. Should the City of Davis sell  
31 its interest in the PVUSA, or sell the electricity generated by the  
32 PVUSA, in a manner other than required by this section, upon the  
33 date of either event, and the earliest date if both events occur, no  
34 further bill credit pursuant to paragraph (2) of subdivision (b) may  
35 be earned. Only credit earned prior to that date shall be made to a  
36 benefiting account.

37 (g) The Legislature finds and declares that credit for a benefiting  
38 account for the electricity output from the PVUSA are in the public  
39 interest in order to value the production of this unique, wholly  
40 renewable resource electricity generation facility located in, and

1 ~~owned in part by, the City of Davis. Because of the unique~~  
2 ~~circumstances applicable only to the PVUSA a statute of general~~  
3 ~~applicability cannot be enacted within the meaning of subdivision~~  
4 ~~(b) of Section 16 of Article IV of the California Constitution.~~  
5 ~~Therefore, this special statute is necessary.~~

6 *SEC. 2. Section 2830 of the Public Utilities Code is amended*  
7 *to read:*

8 2830. (a) As used in this section, the following terms have the  
9 following meanings:

10 (1) “Benefiting account” means an electricity account, or more  
11 than one account, *designated by a local government or campus to*  
12 *receive a bill credit pursuant to this section. To be eligible to be*  
13 *designated as a “benefiting account,” the account shall be for*  
14 *service to premises located within the geographical boundaries of*  
15 *a local government or, for a campus, within the geographical*  
16 *boundary of the city, county, or city and county in which the*  
17 *campus is located, that is mutually agreed upon by the local*  
18 ~~government or campus and an electrical corporation.~~

19 (2) “Bill credit” means an amount of money credited to a  
20 benefiting account that is calculated based upon the ~~time-of-use~~  
21 ~~electricity generation component of the electricity usage charge~~  
22 ~~of the generating account, multiplied by the quantities of electricity~~  
23 ~~generated by an eligible renewable generating facility that are~~  
24 ~~exported to the grid during the corresponding time period.~~  
25 *Electricity bundled electricity rate charged the benefiting account*  
26 *by the electrical corporation.*

27 (A) *If the benefiting account receives service pursuant to a*  
28 *time-of-use rate, the amount of the bill credit is to be calculated*  
29 *by measuring the amount of electricity exported to the electrical*  
30 *grid by an eligible renewable generating facility multiplied by the*  
31 *corresponding time-of-use electricity rate of the benefiting account.*

32 (B) *If the benefiting account receives service pursuant to a fixed*  
33 *single rate, the credit shall be calculated by measuring the amount*  
34 *of electricity exported to the electrical grid by an eligible*  
35 *renewable generating facility multiplied by that rate.*

36 (C) *If the benefiting account receives service pursuant to fixed*  
37 *rates, with different rates charged for different tiers of usage, the*  
38 *bill credit will be at the first tier or baseline usage rate for*  
39 *electricity exported to the electrical grid by an eligible renewable*  
40 *generating facility, up to the baseline quantity of electricity for*

1 *that benefiting account. The bill credit for electricity exported to*  
2 *the grid by an eligible renewable generating facility that is above*  
3 *the baseline amount shall be calculated based upon the next lowest*  
4 *tiered rate, up to that tier of usage, and then upon the next lowest*  
5 *tiered rate, up to that tier of usage, until the bill credit reaches*  
6 *100 percent of the bill to the benefiting account.*

7 (D) *Electricity* is exported to the grid if it is generated by an  
8 eligible renewable generating facility, is not utilized onsite by the  
9 local government *or campus*, and the electricity flows through the  
10 meter site and on to the electrical corporation's distribution or  
11 transmission infrastructure.

12 (3) "Campus" means an individual community college campus,  
13 individual California State University campus, or individual  
14 University of California campus.

15 (4) "Eligible renewable generating facility" means a generation  
16 facility that meets all of the following requirements:

17 (A) Has a generating capacity of no more than ~~one megawatt~~  
18 *20 megawatts*.

19 (B) Is an eligible renewable energy resource, as defined in  
20 Article 16 (commencing with Section 399.11) of Part 1.

21 (C) Is located within the geographical boundary of the local  
22 government or, for a campus, within the geographical boundary  
23 of the city or city and county, if the campus is located in an  
24 incorporated area, or county, if the campus is located in an  
25 unincorporated area.

26 ~~(D) Is owned by, operated by, or on property under the control~~  
27 ~~of, the local government or campus.~~

28 ~~(E)~~

29 (D) Is sized to offset all or part of the electrical load of the  
30 benefiting account, *or more than one account*. ~~For these purposes,~~  
31 ~~premises that are leased by a local government or campus are under~~  
32 ~~the control of the local government or campus.~~

33 (5) "Generating account" means the time-of-use electric service  
34 account of the local government or campus where the eligible  
35 renewable generating facility is located.

36 (6) "Local government" means a city, county, whether general  
37 law or chartered, city and county, special district, school district,  
38 political subdivision, or other local public agency, but shall not  
39 mean a joint powers authority, the state or any agency or

1 department of the state, other than an individual campus of the  
2 University of California or the California State University.

3 (b) Subject to the limitation in subdivision (h), a local  
4 government may elect to receive electric service pursuant to this  
5 section, if all of the following conditions are met:

6 (1) The local government designates one or more benefiting  
7 accounts to receive a bill credit.

8 ~~(2) A benefiting account receives service under a time-of-use~~  
9 ~~rate schedule.~~

10 ~~(3)~~  
11 (2) The benefiting account is the responsibility of, and serves  
12 property that is owned, operated, or on property under the control  
13 of the same local government that owns, operates, or controls the  
14 eligible renewable generating facility *the local government or*  
15 *campus.*

16 ~~(4)~~  
17 (3) The electrical output of the eligible renewable generating  
18 facility is metered for time of use to allow calculation of the bill  
19 credit based upon when the electricity is exported to the grid.

20 ~~(5)~~  
21 (4) All costs associated with the metering requirements of  
22 paragraphs (2) and ~~(4)~~ (3) are the responsibility of the local  
23 government.

24 ~~(6)~~  
25 (5) All costs associated with interconnection are the  
26 responsibility of the ~~local government~~ *holder of the benefiting*  
27 *account*. For purposes of this paragraph, “interconnection” has the  
28 same meaning as defined in Section 2803, except that it applies to  
29 the interconnection of an eligible renewable generating facility  
30 rather than the energy source of a private energy producer.

31 ~~(7)~~  
32 (6) The ~~local government~~ *owner of the eligible renewable*  
33 *generating facility* does not sell electricity exported to the electrical  
34 grid to a third party.

35 ~~(8)~~  
36 (7) All electricity exported to the grid by the ~~local government~~  
37 ~~that is generated by the~~ eligible renewable generating facility  
38 becomes the property of the electrical corporation to which the  
39 facility is interconnected, but shall not be counted toward the  
40 electrical corporation’s total retail sales for purposes of Article 16



(commencing with Section 399.11) of Chapter 2.3 of Part 1. Ownership of the renewable energy credits, as defined in Section 399.12, shall be the same as the ownership of the renewable energy credits associated with electricity that is net metered pursuant to Section 2827.

*(c) (1) Not more frequently than once every other month, and upon providing the electrical corporation with notice pursuant to paragraph (2) with a minimum of 30 days' notice, the local government or campus may elect to change, add, or remove a benefiting account. Any credit resulting from the application of this section earned prior to the change in a benefiting account that has not been used as of the date of the change in the benefiting account shall be applied, and may only be applied, to a benefiting account as changed.*

*(2) Upon a change, addition, or removal of a designated benefiting account, the local government or campus shall determine the percentage of the electricity generated by the eligible renewable generating facility and delivered to the grid that shall be credited to each benefiting account and provide notice to the electrical corporation of the percentage that is to be credited to each benefiting account.*

~~(e)~~

*(d) (1) A benefiting account shall be billed for all electricity usage, and for each bill component, at the rate schedule applicable to the benefiting account, including any cost-responsibility surcharge or other cost recovery mechanism, as determined by the commission, to reimburse the Department of Water Resources for purchases of electricity, pursuant to Division 27 (commencing with Section 80000) of the Water Code.*

*(2) The bill shall then ~~subtract the bill credit applicable to the benefiting account~~ credit the designated benefiting account by the amount of the bill credit. The generation component credited to the benefiting account may not include the cost-responsibility surcharge or other cost recovery mechanism, as determined by the commission, to reimburse the Department of Water Resources for purchases of electricity, pursuant to Division 27 (commencing with Section 80000) of the Water Code. The electrical corporation shall ensure that the local government receives the full bill credit.*

(3) If, during the billing cycle, the ~~generation component of the~~ electricity usage charges exceeds the bill credit, the benefiting account shall be billed for the difference.

(4) If, during the billing cycle, the bill credit applied pursuant to paragraph (2) exceeds the ~~generation component of the~~ electricity usage charges, the difference shall be carried forward as a financial credit to the next billing cycle.

(5) After the electricity usage charge pursuant to paragraph (1) and the credit pursuant to paragraph (2) are determined for the last billing cycle of a 12-month period, any remaining *bill* credit resulting from the application of this section shall be reset to zero, *and the owner of the eligible renewable generating facility may elect to receive compensation pursuant to Section 399.20, for any electricity exported to the electrical grid that is not credited to a benefiting account.*

(6) *The electrical corporation shall inform the local government or campus regarding the amount each benefiting account was credited pursuant to this subdivision for electricity generated by the eligible renewable generating facility and exported to the grid.*

(7) *The local government or campus may prepare a bill for the holder of the benefiting account that is credited pursuant to this subdivision, for electricity generated by the eligible renewable generating facility and exported to the grid.*

~~(d)~~

(e) The commission shall ensure that the transfer of a bill credit to a benefiting account does not result in a shifting of costs to bundled service subscribers. The costs associated with the transfer of a bill credit shall include all billing-related expenses.

~~(e) Not more frequently than once per year, and upon providing the electrical corporation with a minimum of 60 days' notice, the local government may elect to change a benefiting account. Any credit resulting from the application of this section earned prior to the change in a benefiting account that has not been used as of the date of the change in the benefiting account, shall be applied, and may only be applied, to a benefiting account as changed.~~

(f) A local government *or campus* shall provide the electrical corporation to which the eligible renewable generating facility will be interconnected with not less than 60 days' notice prior to the eligible renewable generating facility becoming operational. ~~The electrical corporation shall file an advice letter with the~~

1 commission, that complies with this section, not later than 30 days  
2 after receipt of the notice, proposing a rate tariff for a benefiting  
3 account. The commission, within 30 days of the date of filing,  
4 shall approve the proposed tariff, or specify conforming changes  
5 to be made by the electrical corporation to be filed in a new advice  
6 letter.

7 (g) The local government *or campus* may terminate its election  
8 pursuant to subdivision (b), upon providing the electrical  
9 corporation with a minimum of 60 days' notice. Should the local  
10 government sell its interest in the eligible renewable generating  
11 facility, or sell the electricity generated by the eligible renewable  
12 generating facility, in a manner other than required by this section,  
13 upon the date of either even, and the earliest date if both events  
14 occur *electricity generated by the eligible renewable generating*  
15 *facility be sold to a third party*, no further bill credit pursuant to  
16 paragraph (3) of subdivision (b) (d) may be earned. Only credit  
17 earned prior to that date shall be made to a benefiting account.

18 (h) ~~An electrical corporation is not obligated to provide a bill~~  
19 ~~credit to a benefiting account that is not designated by a local~~  
20 ~~government prior to the point in time that the combined statewide~~  
21 ~~cumulative rated generating capacity of all eligible renewable~~  
22 ~~generating facilities within the service territories of the state's~~  
23 ~~three largest electrical corporations reaches 250 megawatts. Only~~  
24 ~~those eligible renewable generating facilities that are providing~~  
25 ~~bill credits to benefiting accounts pursuant to this section shall~~  
26 ~~count toward reaching this 250-megawatt limitation. Each electrical~~  
27 ~~corporation shall only be required to offer service or contracts~~  
28 ~~under this section until that electrical corporation reaches its~~  
29 ~~proportionate share of the 250-megawatt limitation based on the~~  
30 ~~ratio of its peak demand to the total statewide peak demand of all~~  
31 ~~electrical corporations.~~

32  
33  
34 **All matter omitted in this version of the bill**  
35 **appears in the bill as introduced in the**  
36 **Senate, February 15, 2011. (JR11)**  
37